

DESK-TOP ABORIGINAL HERITAGE STUDY OF

PROPOSED NORTHERN SUBURBS RAILWAY ROUTE

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For:

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July 2012

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The coordinates listed in this report are MGA Zone 50.

ABSTRACT

The Public Transport Authority is planning the extension of the Northern Suburbs Railway from Romeo Road, Alkimos, to Yanchep, a distance of approximately 12.5 kilometres. Construction is anticipated to commence in 2014. In March 2012 PTA commissioned R. & E.O'Connor Pty. Ltd. to conduct an Aboriginal heritage analysis of the Project. The purpose of the analysis was to investigate and make recommendations for managing identified Aboriginal heritage issues that may be affected by this proposed project in accordance with the requirements of the *Aboriginal Heritage Act 1972 (AHA)*.

No Aboriginal sites have been previously recorded within the Project Area. Pipidinny Lake, approximately one kilometre to the east on Pipidinny Road is a registered mythological site, as also is Loch McNess in Yanchep National Park - the latter is some three kilometers to the east of the Project Area. This report has noted that local Aboriginal people attribute significance to wetlands and waterways in the Perth Metropolitan Area and that former Aboriginal camping places, also, tend to be in the vicinity of such areas. This comment applies equally to known post-settlement camps as well as camps evidenced by archaeological material. The preliminary inspection has indicated that there do not appear to any such water-sources in the Project Area. Certainty on that issue, however, requires a further detailed inspection.

It is a matter of previous record that Aboriginal people in the Bunbury to Geraldton coastal area tended to bury their dead in the soft and easily excavated coastal dunes. Although the proposed rail alignment passes through dunal areas, these are secondary or tertiary dunes which, unlike the coastal primary formations, are vegetated and

therefore not as easily excavated. The possibility of encountering burials during construction, whilst it cannot be totally excluded, is therefore unlikely.

In the light of the above discussion, this report offers for consideration the following recommendations in order to fulfil the requirements of the research brief and assist the PTA in compliance with the provisions of the AHA.

- That, before ground disturbance associated with the Project takes place, an archaeological field survey of the proposed alignment should be carried out.
- Following the above, a consultative process involving the relevant Aboriginal persons/groups should be commissioned by PTA. As noted in Section 6.0 of this report, that process should minimally include the Whadjuk native title claimant group, the Bibulmun Group and the Ballaruk Group.
- That all contractors and employees of PTA involved in formation of the rail alignment should be advised of the possibility of encountering skeletal material in dunal areas and advised of the appropriate steps to take in the event of such discovery. These are as follows.
 1. In the event of discovery of verified, **or possible**, human skeletal material, all ground disturbance in the vicinity of the discovery must stop immediately;
 2. The discoverer should notify immediately the Works Supervisor or other senior person on site, as appropriate;
 3. All contractors or employees of PTA carrying out ground disturbing activities in the general vicinity of the discovery should be notified by that senior person and instructed not to carry out any ground disturbance within fifty metres of the skeletal material;
 4. The senior person involved should notify the WA Police at the nearest

Police Station and should request the attendance of an Officer at the site of the discovery;

5. The senior person involved should notify the Registrar of Aboriginal Sites at the Department of Indigenous Affairs of the discovery;

6. If the skeletal material is identified by the Police as Aboriginal and as being sufficiently old to suggest pre-contact interment, then PTA should confer with the Registrar of Aboriginal Sites or Registrar's Delegate and with the Aboriginal groups who were involved in the field surveys in regard to management options including, if appropriate, exhumation and reburial away from areas of ground disturbance.

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1.0 Introduction

The Public Transport Authority (PTA) is planning the extension of the Northern Suburbs Railway from Romeo Road, Alkimos, to Yanchep, a distance of approximately 12.5 kilometres (“the Project”). Construction is anticipated to commence in 2014. In March 2012 PTA commissioned R. & E.O’Connor Pty. Ltd. to conduct an Aboriginal heritage analysis of the Project. The purpose of the analysis was to investigate and make recommendations for managing identified Aboriginal heritage issues that may be affected by this proposed project in accordance with the requirements of the *Aboriginal Heritage Act 1972* (AHA).

2.0 Research Brief

The Project is shown in Figure One. Formwork for the alignment is already in place as far north as the northern end of Charlbury Drive in Butler (see Plate One). From there the alignment passes through mixed Banksia, Dryandra and Xanthorrhoea bushland typical of the area, occasionally interspersed with less vegetated sand dunes, to cross the presently unformed Romeo Road some four hundred metres east of its junction with Marmion Avenue and reach the southern end of Maroon Avenue in Alkimos (see Plate Two). From there the proposed alignment veers towards the northwest to cross Pipidinny Road approximately six hundred metres east of its junction with Marmion Avenue (see Plate Three). It then crosses Yanchep Beach Road to the north of Bulbin Parade and passes to the west of Capilano Avenue (see Plate Four), from which point it takes a more northerly orientation to continue to its

terminus. South of Yanchep, the alignment passes through dunal areas, some of which are quite heavily vegetated. In the vicinity of Yanchep Beach Road, the alignment leaves the coastal scrub and dunes noted above and passes in places through eucalyptus woodlands.

Within the Project Area, PTA wishes to determine the presence of any issues that may require detailed investigation and/or action pursuant to the *Aboriginal Heritage Act* in respect of that land in the future. This preliminary ethnographic investigation was carried out as a “desk top” study, which involved the following research:

1. consideration of the ethnographic database in the Aboriginal Site Register and in relevant unpublished ethnographic reports (where such reports are available);
2. consideration of relevant published articles and other published works;
3. consideration of the readily available archival record - in this case, relevant sections of the notebooks of Daisy Bates and of Professor Tindale;
4. consideration of the Native Title Register;
5. consideration of regional maps;
6. consideration of environmental information; and
7. an on-site inspection by the author.

The research brief requires the results of the above research to be analysed to achieve the following:

- To identify any known or potential Aboriginal heritage issues that may affect the proposed development.

- To identify if any further research and/or consultation will be needed to meet the requirements of the *Aboriginal Heritage Act 1972*.
- To make recommendations regarding the scope of any further research and/or consultation that may be required, and the type of approach to be taken.

3.0 Ethnographic Background

The research brief requires the identification and assessment of sites of Aboriginal significance in the study region. It is therefore appropriate for the ethnographic study to consider "significance" from an Aboriginal viewpoint. Significance is attributed by Aboriginal people to areas in the Perth Metropolitan region on the basis of former or current domestic usage, or on the basis of relevance to traditional ritual or mythology. Broadly speaking, this distinction can be viewed as a series of dichotomies between historical and mythological, human and supernatural, or mundane and sacred areas. Thus, one area may be viewed as significant from a historical/human/mundane viewpoint, and another from a mythological/sacred viewpoint.

In addition to the above, a substantial number of Aboriginal sites are mentioned in Hammond (1933), Moore (1885), Bates (numerous dates) and other historical sources. Any sites not known to contemporary Aborigines cannot reasonably be classified as "sites of significance to living Aborigines". However, rediscovery or realisation of the existence of such sites could lead to an attribution of significance. Thus, the neat compartmentalisation resulting from European academic

disciplines may not fit absolutely the Aboriginal models; any archaeological or historical site in the study region could also be potentially significant to Aboriginal people.

In the course of previous surveys in the Rockingham/Mandurah area, however, a further aspect of significance, which the present author terms "generalised significance" was encountered. In this case significance is attributed to an area on the basis of that area's physical or environmental characteristics rather than on the basis of an area-specific reason. Thus, the chain of lakes and swamps between Baldivis and Mandurah was recently claimed as significant by the Aboriginal elders of Mandurah who oversee heritage matters in that region. The given reasons for that claim were as follows.

1. The wetlands were known to have been used as food and water resources by Aboriginal people before European settlement, although the identities of those users are unknown;
2. The shores of the wetlands were known to have been used as camping places by Aboriginal people before European settlement, although in most cases the exact location of such camping places is unknown, as are the identities of campers;
3. The wetlands are current areas of spiritual significance. The Aboriginal elders from the Mandurah area now consider regional wetlands to be spiritual repositories, not in the sense of the ubiquitous Waugal myth, which has been previously recorded in relation to the Murray and Serpentine Rivers, but in a more general sense which draws on the fundamentals of Aboriginal philosophico-religious belief. In this belief system all living creatures, including humans, share a common spiritual essence and therefore, by extension, every living being represents a part of the wider spiritual

universe. The region's wetlands, as breeding grounds for numerous living creatures, are therefore repositories of this spiritual essence realised generationally by individuals.

The above is clearly a development from the commonly held notion that significance is only attributable specifically. However, if Section Five of the Western Australian *Aboriginal Heritage Act* is carefully considered, it is clear that it would be difficult to argue that areas to which this generalised significance is attributed are not Aboriginal sites within the meaning of the Act, as they are clearly being described by the Aboriginal people concerned as "sacred" places "of importance and special significance to persons of Aboriginal descent". Nonetheless, the author has been notified by the Department of Indigenous Affairs that the Aboriginal Cultural Material Committee has received legal advice that an attribution of generalised significance by Aboriginal people is insufficient to meet the requirements of Section 5 (b) of the Act. There is therefore a potential dissonance between "Aboriginal sites", as defined by Aboriginal people, and "Aboriginal sites", as defined by the Act.

4.0 Aboriginal Site Register and Associated Reports

Working southwards from the northern terminus, searches of the Register of Aboriginal Sites were carried out for three sectors of the proposed rail alignment defined by coordinate sets, as follows (Register extracts are included below as Appendix Three).

Northern Sector: 371000E 6514000N; 372000E 6514000N; 372000E 6508000N; 371000E 6508000N. No Aboriginal sites have been previously recorded within this sector and no professional reports relevant to it are held in the Department of Indigenous Affairs.

Central Sector: 372000E 6509000N; 375400E 6506000N; 373000E 6506000N; 372000E 6508000N. No Aboriginal sites have been previously recorded within this sector and no professional reports relevant to it are held in the Department of Indigenous Affairs. The results for the Northern and Central Sectors should not be taken as indicative of lack of Aboriginal heritage associations; rather they are indicative of the fact that no heritage field surveys or Aboriginal consultations have been carried out there in the past.

Southern Sector: 375000E 6506000N; 377000E 6500000N; 376000E 6500000N; 373000E 6506000N. One Aboriginal Site and one "Other Heritage Place" have been previously recorded within this polygon, as follows.

- Site Number 17451, "Pipidinny Lake", a registered mythological site listed under Open Access. Figures Two and Three show the boundaries of this site, as defined in the DIA Aboriginal Site File. Details of the myth relating to this site, as recounted by the late Mr Ken Colbung, reproduced from the Aboriginal Site File and from relevant reports, are as follows. *The crocodile moved on to Two Rocks, where the Yonga, the kangaroo, and the Bibilja, the scrub turkey, and the head of the animals was waiting and he put a formal request to him to really come in and have a good rest and it was to there that after consultation with the rest of the animals they made the decision that he could come forward providing he kept to the rules that they had laid down, the rules that he shouldn't be jumping on trees and shouldn't be flying around and*

he shouldn't get into the water and he should come forward and he had a special berry tree – the emu berry tree that was there for him and also that he should eat seeds but not meat. And so he made that decision and they allowed him to come in. First of all he went to Pipindinny Lake and at Pipindinny Lake in actual fact he sat down and all the blood ran out of his body and you will see that Pipindinny Lake is coloured like blood – brown blood – and then he went on from there and moved to Nowergup... Now occasionally you will see emus going under a sprinkler or lie in the water reminding them of the old days when they were a crocodile....

- Listing Number 20769, “Sbj09”, a natural feature listed as Stored Data under Open Access. Stored data listings are not covered by the provisions of the AHA. This area was reported as an Aboriginal site by Australian Interaction Consultants in 2003, as a result of consultations carried out with the Independent Aboriginal Environmental Group, the Combined Metropolitan Working Group, Mr Iva Hayward-Jackson, the Bodney family and Ms. Esandra Colbung. However, by Resolution 5795 of ACMC Meeting 4246 on 4 June 2008, the Aboriginal Cultural Material Committee decided that it was not an Aboriginal site within the meaning of the AHA. Notwithstanding this ACMC Resolution, the area may contain items of European heritage importance, as the relevant report notes that *it appears to contain an old bore, the remains of an old windmill and evidence of use as a campsite – several old campfires*. It is within Lot 8, Marmion Avenue, Butler and is shown in Figure Four below. A recommendation in its regard is included below.

Eleven professional reports are listed in the Register of Aboriginal Sites as relevant to Site Number 17451 and Listing Number 20769. Three were found not to be relevant. Comments on the remaining eight are as follows.

- Report 23256. B.Coldrick 2008. Ethnographic Survey of Lot 3 Romeo Road, Alkimos. The Aboriginal consultation for this report was restricted to the Bubulmun Group and Ballaruk Group only – effectively the late Mr Ken Colbung and Mr Corrie Bodney. The report notes that *during the ethnographic consultation the dunes, hill and gully within Lot 3 described as being created by the actions of the Waugal. One senior Aboriginal consultant described the Waugal Dreaming Track that runs through Lake Pipidinny and then on to Karli Spring...Although the consultant appeared to concur with the view that the dunes were associated with the Waugal mythology in general terms, he confirmed that there were no "sacred/secret" sites on the property.*
- Report 23254. J.Thompson 2008. Archaeological Inspection of Lot 3 Romeo Road, Alkimos. This is a companion document to the preceding report. It concludes that *(as) no archaeological sites or material was located during the archaeological inspection...and ...in the light of the results of a previous desktop study and other archaeological surveys conducted within the Alkimos region ... there is a low probability of any archaeological sites being located within the Project Area.*
- Report 23086. Australian Interaction Consultants 2006. Preliminary Aboriginal Heritage Investigation of Lot 3 Romeo Road, Alkimos. This investigation was carried out to inform the two preceding reports. It is referred to in report 23254.

- Report 22599. Australian Interaction Consultants 2007. Aboriginal Heritage Investigation – East Wanneroo land Use and Water Management Strategy. This report deals with areas to the south of the proposed rail alignment.
- Report 20246. S.Parker 2003. Ethnographic and Archaeological Survey of Lot 8 Marmion Avenue, Butler. This is the report on the survey in the course of which Listing Number 20769 was recorded (see above).
- Report 22942. This document is part of the Section 18 Notice regarding Lot 8 Marmion Avenue, Butler.
- Report 101370. L.Bhavna 1998. Cultural Significance of Aboriginal Sites in the Wanneroo Area. This is the original source document for the story of the crocodile who became an emu, part of which is reproduced above in regard to Pipidinny Lake.
- Report 22787. G.Wright 2008. Indigenous Heritage Survey of Loch McNess, Yanchep National Park. This consultation involved twenty-nine Nyungar people. The purpose of the consultation was to establish whether the Perth Shallow Groundwater Project's requirements to drill two sets of three monitoring bores next to Loch McNess would disturb indigenous heritage values there, and the indigenous views as to whether such disturbance should be permitted. The heritage values of Yanchep National Park were confirmed. However, the Park and therefore the subject of this survey are to the east of the Project Area herein considered.

5.0 Other Unpublished Reports and Published Works

Brown (1983), Wall (1976) and O'Connor, Bodney and Quartermaine (1989) were also consulted in the course of the research, as all three ethnographic surveys included the Project Area, but no significant Aboriginal sites within the Project Area are mentioned in these documents. Hammond (1933), Bates (1944) and Bates (1992) were also consulted and found to contain no references to the Project Area, although O'Connor, Bodney and Quartermaine deals with the Aboriginal significance of Yanchep National Park and Loch McNess. The field notebooks of the late Professor Tindale also contain no references to the vicinity of the Project Area.

6.0 Native Title and Other Aboriginal Stakeholders

The Project Area was covered by the Combined Metropolitan Working Group application for determination of native title, which was initially registered and therefore did enjoy the statutory Right to Negotiate under the "Future Act" procedures of the *Native Title Act 1993*. It was also covered by the former Bodney #2 application on behalf of the Ballaruk Aboriginal group, which was not registered.

In September 2006, Wilcox J. made a determination of native title in respect of the Perth Metropolitan Area and surrounding lands in favour of the Combined Metropolitan Working Group of native title claimants, known formally as Region Six, Single Noongar Claim. His judgement also found that the Bodney application had failed to establish native title. An appeal against his Honour's decision was launched

in the Full Court of the Federal Court of Australia by the State and Federal Governments, the Western Australian Fishing Industry Council and Mr Christopher Bodney (of the Bodney #2 application mentioned above). On 23 April 2008, Finn, Sundberg and Mansfield JJ dismissed Mr Bodney's appeal and found in favour of the other three appellants, as follows.

THE COURT ORDERS THAT:

- 1. The applicant have leave to appeal from the judgment below.*
- 2. The appeal be allowed.*
- 3. Orders 1 and 5 of the primary judge's orders be set aside.*
- 4. The separate question be remitted to the Western Australian native title provisional docket judge to be dealt with in the manner appearing at [211] of the Court's reasons for judgment.*
- 5. There be no order as to the costs of the appeal.*
- 6. Any submissions by the appellant that there should be a costs order different from that in paragraph 5 be filed and served within 21 days from the publication of the Court's reasons.*
- 7. Any submissions by the respondents in reply to the appellant's submissions be filed within 14 days of service of the appellant's submissions.*

The native title granted by the Federal Court of Australia to the Aboriginal group was therefore removed by the same Court and the status of the former native title holders was again that of native title claimants, pending a decision on their case by the appointed docket judge. The claim, in addition, was now not registered. However, at that time discussions commenced between the South West Aboriginal Land and Sea Council and the State of Western Australia, with the aim of resolving all native title issues involving the southwest of the State through negotiation rather

than litigation. It is now a matter of public knowledge that a sector of the Nyungar population does not wish to settle the matter in this way.

However, the Bodney appeal had, once again, also failed. The question of the Ballaruk group's right to participate in Aboriginal heritage surveys in the area in which they have been found not to hold native title therefore needs addressing. This question was raised in Parliament on 13 August 2003, following the findings of Nicholson J in the matter of *Daniel et al v the State of Western Australia* in 2003 and was answered by the Hon. Minister representing the Hon. Minister for Indigenous Affairs as follows.

Hon. John Fischer to the Minister representing the Hon. Minister for Aboriginal Affairs: Is the Minister aware of findings in the matter of Daniel v the State of Western Australia 2003 FCA 666 by Nicholson J and published in the Draft Determination in which Nicholson J states that the Second Applicants – being Yaburara and Mardudhunera – do not hold any native title rights and interests in the determination area? ... If this is the case, why are they being paid from the public purse as heritage consultants prior to developments in an area over which Nicholson J determined they have no claim?

Hon Minister representing the Hon. Minister for Aboriginal Affairs in reply: Consultations under the Aboriginal Heritage Act 1972 are separate and distinct from matters concerning the federal Native Title Act 1993. A finding that a group does not hold native title in no way suggests that that group does not have traditional associations with an area. It means that that group was unable to meet the onerous legal requirements necessary to establish native title. Indigenous people employed as

consultants for heritage surveys are those with a known or claimed association with the development area.

Accordingly, notwithstanding the findings of Wilcox J and Finn, Sundberg and Mansfield JJ it would appear that the Ballaruk group should continue to be consulted in regard to Aboriginal heritage matters in the Perth area where appropriate and, by extension, in the Project Area, should such a consultation be carried out.

On 26 March 2011, the South West Aboriginal Land and Sea Council called a meeting of all native title claimants for the Combined Metropolitan Working Group area, to discuss the future of the Single Noongar Claim, now renamed as Area Number One (WC03/6). Following the meeting, six new Registered Applicants were appointed to replace the existing Applicants as leaders of the claim. However, a new application for determination of native title was then lodged for and on behalf of the family groups who originally lodged the initial claim: namely the Bropho, Garlett, Wilkes and Corunna families. These groups are included in the parties which do not wish to resolve their native title claim by negotiation and wish to pursue litigation, contrary to the actions and wishes of the South West Aboriginal Land and Sea Council. The new application is known as the Swan River People 2 Claim and is listed as National Native Title Tribunal Number WC11/2. At the time of production of this report that application had not been found to satisfy the requirements of Section 190A of the *Native Title Act 1993*. It is therefore unregistered and does not enjoy the statutory Right to Negotiate in accordance with the Future Act provisions of that Act.

Finally, in June of 2011, another new application for determination of native title was filed by the South West Aboriginal Land and Sea Council on behalf of a group including the six new applicants appointed to the Single Noongar Claim, Area Number One, in March 2011. The new application, known as the Whadjuk Claim, National Native Title Tribunal Number WC11/9, has been found to satisfy the requirements of Section 190A of the Act and has therefore been entered on the Register of Native Title Claims. Its members therefore enjoy the Right to Negotiate, as noted above and are pursuing the option of settling the native title claim by negotiation with the State Government.

Apart from the formal native title claimant groups reviewed here, there are also three other groups from the Perth Metropolitan Area who are sometimes included in consultations regarding Aboriginal heritage there, as follows:

- The Independent Aboriginal Environmental Group;
- The Bibulmun Group; and
- The Jacobs Clan.

In November 2011 The DIA and the Department of Premier and Cabinet issued Version 2.0 of the *Cultural Heritage Due Diligence Guidelines*, which noted that *land users are obliged to comply with the provisions of the (AHA) ... (and) these Guidelines provide assistance in meeting this statutory obligation*. Clearly, one of the issues faced by land users is: which Aboriginal groups/persons should be consulted in regard to Aboriginal heritage issues in any particular proposed development area? Guideline 1.10 goes some of the way to answering that question, as follows. *Information about the Aboriginal heritage of a particular area is best obtained in*

consultation with the relevant Aboriginal people for that area. Whilst there is no definitive list of Aboriginal people who should be consulted for an area, the APMC suggests that the following people at least should be consulted:

- (a) those who are determined native title holders;*
- (b) those who are registered native title claimants;*
- (c) persons named as informants on Aboriginal site recording forms held in the Register at DIA; and*
- (d) any other Aboriginal persons who can demonstrate relevant cultural knowledge in a particular area.*

In respect of (a), there are no determined native title holders, as the 2006 judgement was set aside on appeal. In respect of (b), as noted above, only the Whadjuk claim is registered. As there are no Aboriginal sites registered within the proposed rail alignment, there are no relevant informants. Finally, it is clear from the reports reviewed in 4.0 above that the Bodney/Ballaruk family group and the Colbung/Bibulmun family group have demonstrated in the past relevant cultural knowledge of the area in question. This report returns to these considerations in its recommendations below.

7.0 Site Inspection

A preliminary inspection of the Project Area was conducted on 26 April 2012, with the purpose of gaining background environmental and geographical information in order to facilitate the generation of realistic and relevant recommendations for further Aboriginal heritage investigations. As noted in 2.0 above, the formwork for the alignment is already in place as far as the northern end of Charlbury Drive in

Butler (see Plates One and Seven). From there, it enters mixed Dryandra, Banksia and Xanthorrhoea bushland typical of the area. Plate Five shows the area to the immediate north of the finished formwork. The crossing of Romeo Road is some four hundred metres east of that road's junction with Marmion Avenue. This is shown in Plate Six, where the undulating vegetated dunes referred to by Mr Bodney in the course of the ethnographic survey of Lot 3 Romeo Road, as detailed in 4.0 above, are clearly visible. From there the proposed alignment continues roughly northwards to reach the southern end of Maroon Avenue in Alkimos, as shown in Plate Two. Vegetation here is less dense than in Butler and a certain amount of clearing has already taken place. The proposed alignment then veers towards the northwest to cross Pipidinny Road approximately six hundred metres east of the Marmion Avenue junction and one kilometre west of the Pipidinny Lake Aboriginal site. The approximate point of crossing Pipidinny Road is shown in Plate Three. Again, the vegetation is not heavy at this point. South of Yanchep, the alignment passes through dunal areas, some of which are quite heavily vegetated. The alignment then continues on the roughly northwesterly orientation to cross Yanchep Beach Road to the north of Bulbin Parade and pass to the west of Capilano Avenue, in an area vegetated with coastal dunal scrub, as shown in Plate Four. It then takes a more northerly orientation to continue to its terminus. In the vicinity to the south of Yanchep Beach Road, the alignment leaves the coastal scrub and dunes noted above and passes in places through eucalyptus woodlands. Access to the terminus and surrounds is not currently open to vehicles and that area will need to be inspected on foot. Plate Eight is an easterly aspect from the southern end of Zamia Rise in Yanchep, near to the future Marmion Avenue Extension corridor. The Project Area is in the background.

As noted in Section 3 of this report, and notwithstanding the resolutions of the ACMC in their regard, local Aboriginal people attribute significance to wetlands and waterways in the Perth Metropolitan Area. Former Aboriginal camping places, also, tend to be in the vicinity of such areas. The inspection of the Project Area has suggested that there are no wetland or swamp areas contained within it, although certainty on that point cannot be achieved until a thorough on-foot inspection is carried out. At this stage, this report therefore suggests that it is highly unlikely that the Project Area is or contains any areas or places of significance to Aboriginal people. Former camping areas, evidenced by surface scatters of artefacts or debris from the manufacture of such artefacts also tend to be associated with water-sources in the Perth to Yanchep area. Lack of such water-sources suggests also that the project Area will not contain any such archaeological sites. Again, however, certainty can only be achieved by physical inspection of the ground surface. In addition, the dense scrub towards the southern end of the proposed alignment would not be an attractive habitat for humans, and it is therefore unlikely to include any artefact scatters.

8.0 Conclusions and Recommendations

The Public Transport Authority is planning the extension of the Northern Suburbs Railway from Romeo Road, Alkimos, to Yanchep, a distance of approximately 12.5 kilometres. Construction is anticipated to commence in 2014. In March 2012 PTA commissioned R. & E.O'Connor Pty. Ltd. to conduct an Aboriginal heritage analysis of the Project. The purpose of the analysis was to investigate and make recommendations for managing identified Aboriginal heritage issues that may

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It is a matter of previous record that Aboriginal people in the Bunbury to Geraldton coastal area tended to bury their dead in the soft and easily excavated coastal dunes. Although the proposed rail alignment passes through dunal areas, these are secondary or tertiary dunes which, unlike the coastal primary formations, are vegetated and therefore not as easily excavated. The possibility of encountering burials during construction, whilst it cannot be totally excluded, is therefore unlikely.

In the light of the above discussion, this report offers for consideration the following recommendations in order to fulfil the requirements of the research brief and assist the PTA in compliance with the provisions of the AHA.

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- Following the above, a consultative process involving the relevant Aboriginal persons/groups should be commissioned by PTA. As noted in Section 6.0 of this report, that process should minimally include the Whadjuk native title claimant group, the Bibulmun Group and the Ballaruk Group.
- That all contractors and employees of PTA involved in formation of the rail alignment should be advised of the possibility of encountering skeletal material in dunal areas and advised of the appropriate steps to take in the event of such discovery. These are as follows.
 1. In the event of discovery of verified, **or possible**, human skeletal material, all ground disturbance in the vicinity of the discovery must stop immediately;
 2. The discoverer should notify immediately the Works Supervisor or other senior person on site, as appropriate;
 3. All contractors or employees of PTA carrying out ground disturbing activities in the general vicinity of the discovery should be notified by that senior person and instructed not to carry out any ground disturbance within fifty metres of the skeletal material;
 4. The senior person involved should notify the WA Police at the nearest Police Station and should request the attendance of an Officer at the site of the discovery;
 5. The senior person involved should notify the Registrar of Aboriginal Sites at the Department of Indigenous Affairs of the discovery;
 6. If the skeletal material is identified by the Police as Aboriginal and as being sufficiently old to suggest pre-contact interment, then PTA should confer with

the Registrar of Aboriginal Sites or Registrar's Delegate and with the Aboriginal groups who were involved in the field surveys in regard to management options including, if appropriate, exhumation and reburial away from areas of ground disturbance.

References

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Figure One:
The Project



0 200 400 600 800 1000m
SCALE 1:20000 AT ORIGINAL SIZE

INFRASTRUCTURE PLANNING & LAND SERVICES
Government of Western Australia
Public Transport Authority

ALKIMOS TO YANCHEP

PRELIMINARY ROUTE PLAN
HORIZONTAL DATUM: MGA 94
PTA DRG No: 14-C-24-0003_B

SCALE: 1:20000 (@ A1)

PROPOSED RAILWAY ALIGNMENT

EXISTING RAILWAY ALIGNMENT

710000E
710000E

712000E

713000E

714000E

715000E

716000E

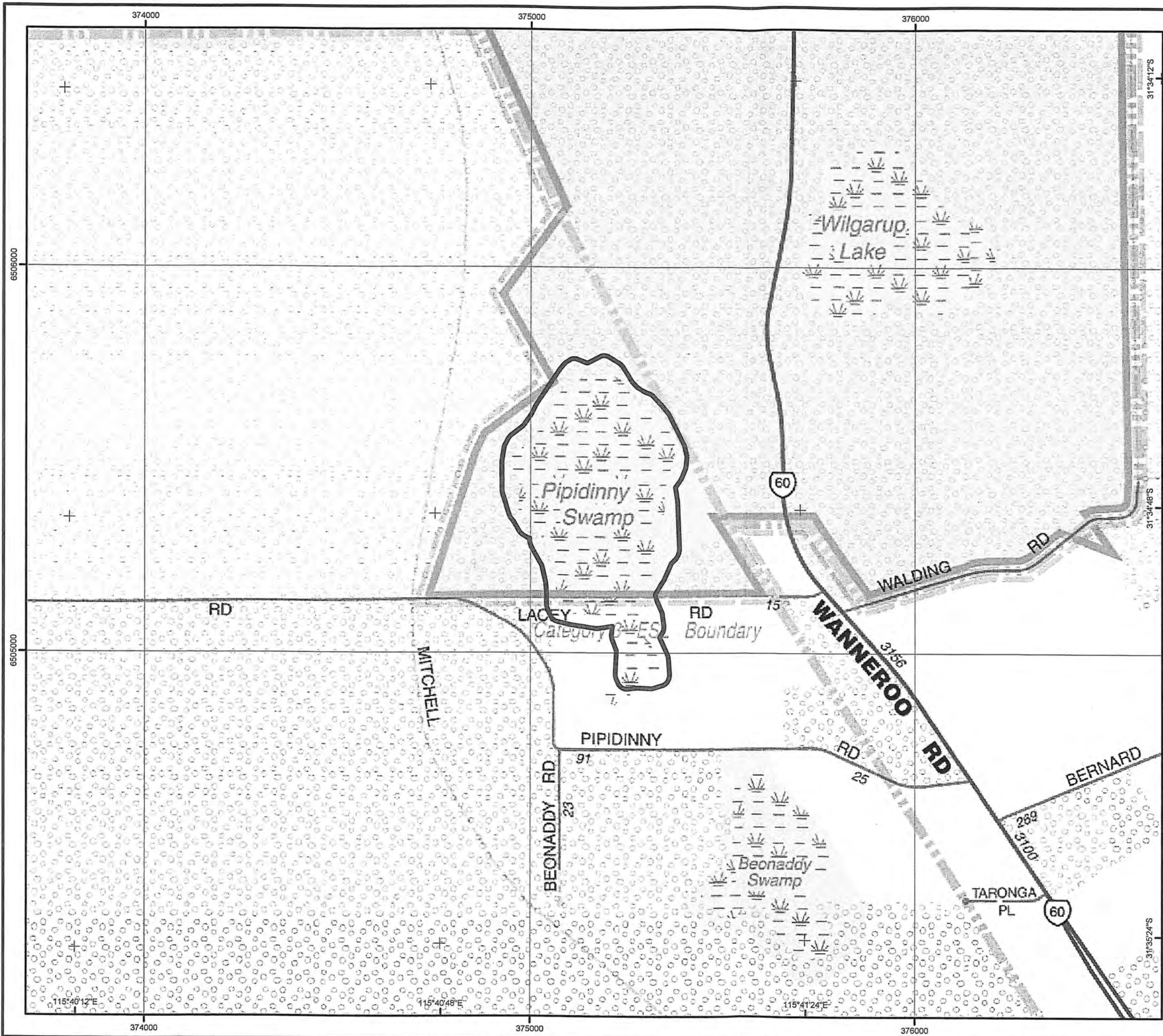
718000E

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652500mN
652600mN
652700mN
652800mN
652900mN
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653900mN
654000mN
654100mN
654200mN
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658900mN
659000mN
659100mN
659200mN
659300mN
659400mN
659500mN
659600mN
659700mN
659800mN
659900mN
660000mN

Figures Two and Three:

Site Number 17451



Site No: 17451

Capture Method: Rivers and Waters Dataset

Source Date: 01/01/1997

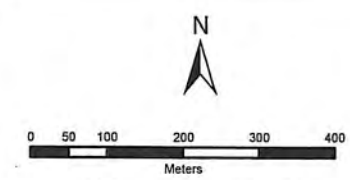
Reliability: R

Circle Radius: 30

DIA INTERNAL USE ONLY

Captured By: SHW

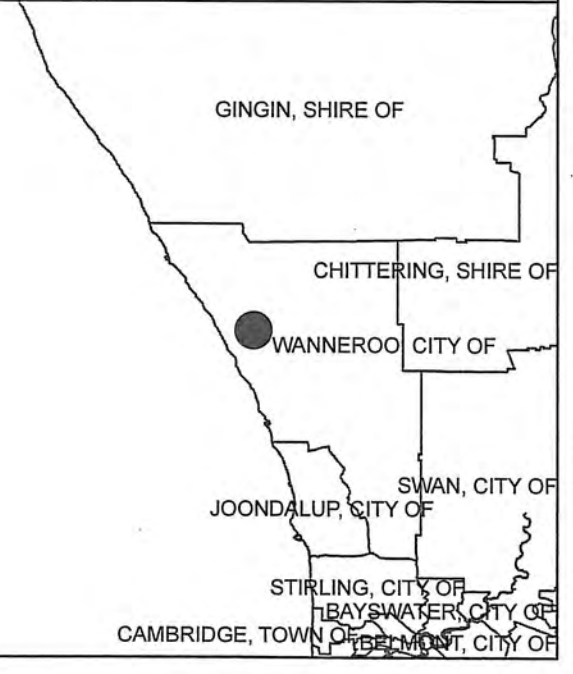
QA By: _____



Scale 1: 10000

GDA 1994 MGA Zone 50

Date: 11/02/2008





Site No: 17451

Capture Method: Rivers and Waters Dataset

Source Date: 01/01/1997

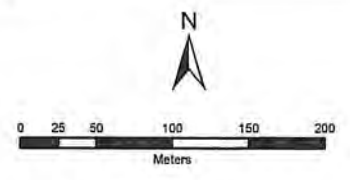
Reliability: R

Circle Radius: 30

DIA INTERNAL USE ONLY

Captured By: SHW

QA By: _____



Scale 1: 5000

GDA 1994 MGA Zone 50

Date: 11/02/2008



Figure Four:

Site Number 20769



Site No: 20769

Capture Method: GPS/Map

Source Date: 26/03/2008

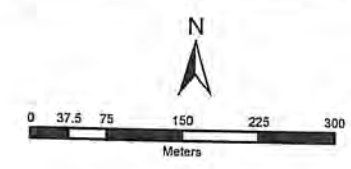
Reliability: R

Circle Radius: 510

DIA INTERNAL USE ONLY

Captured By: SHW

QA By: _____



Scale 1: 7500

Date: 04/04/2008

GDA 1994 MGA Zone 50



Plates One and Two



Plates Three and Four



Plates Five and Six



Plates Seven and Eight



Appendix One:

Notes on the *Aboriginal Heritage Act, 1972*

APPENDIX 1

OBLIGATIONS RELATING TO SITES UNDER THE ABORIGINAL HERITAGE ACT, 1972

Report of Findings

"15. Any person who has knowledge of the existence of anything in the nature of Aboriginal burial grounds, symbols or objects of sacred, ritual or ceremonial significance, cave or rock paintings or engravings, stone structures or arranged stones, carved trees, or of any other place or thing to which this Act applies or to which this Act might reasonably be suspected to apply shall report its existence to the Registrar, or to a police officer, unless he has reasonable cause to believe the existence of the thing or place in question to be already known to the Registrar."

Excavation of Aboriginal Sites

"16. (1) Subject to Section 18, the right to excavate or to remove any thing from an Aboriginal site is reserved to the Registrar.

(2) The Registrar, on the advice of the Committee, may authorise the entry upon and excavating of an Aboriginal site and the examination or removal of any thing on or under the site in such manner and subject to such conditions as the Committee may advise."

Offences Relating to Aboriginal Sites

"17. A person who-

(a) Excavates, destroys, damages, conceals or in any way alters any Aboriginal site; or

(b) In any way alters, damages, removes, destroys, conceals, or who deals with in a manner not sanctioned by relevant custom, or assumes the possession, custody or control of, any object on or under an Aboriginal site,

commits an offence unless he is acting with the authorisation of the Registrar under Section 16 or the consent of the Minister under Section 18."

Consent to Certain Uses

"18. (1) For the purposes of this section, the expression "the owner of any land" includes a lessee from the Crown, and the holder of any mining tenement or mining privilege, or of any right or privilege under the Petroleum Act, 1967, in relation to the land.

(2) Where the owner of any land gives to the Trustees notice in writing that he requires to use the land for a purpose which, unless the Minister gives his consent in this Section, would be likely to result in a breach of Section 17 in respect of any Aboriginal site that might be on the land, the Committee shall, as soon as they are reasonably able, form an opinion as to whether there is any Aboriginal site on the land, evaluate the importance and significance of any such site, and submit the notice to the Minister together with their recommendations in writing as to whether or not the Minister should consent to the use of the land for that purpose, and, where applicable, the extent to which and the conditions upon which his consent should be given.

(3) When the Committee submit a notice to the Minister under subsection (2) of this section he shall consider their recommendation and having regard to the general interest of the community shall either -

(a) Consent to the use of the land the subject of the notice, or a specified part of the land, for the purpose required, subject to such conditions, if any, as he may specify; or

(b) Wholly decline to consent to the use of the land the subject of the notice for the purpose required,

and shall forthwith inform the owner in writing of his decision.

(4) Where the owner of any land has given to the Committee notice pursuant to the subsection (2) of this section and the Committee have not submitted it with their recommendation to the Minister in accordance with that subsection the Minister may require the Committee to do so within a specified time, or may require the Trustees to take such other action as the Minister considers necessary in order to expedite the matter, and the Committee shall comply with any such requirement.

(5) Where the owner of any land is aggrieved by a decision of the Minister made under subsection (3) of this section he may, within the time and in the manner prescribed by the rules of court, appeal from the decision of the Minister to the Supreme Court which may hear and determine an appeal.

(6) In determining an appeal under subsection (5) of this section the Judge hearing the appeal may confirm or vary the decision of the Minister against which the appeal has been made or quash the decision of the Minister, and may make such order as to the costs of the appeal as he sees fit.

(7) Where the owner of the any land gives notice to the Committee under subsection (2) of this section, the Committee may if they are satisfied that it is practicable to do so, direct the removal of any object to which this Act applies from the land to a place of safe custody.

(8) Where consent has been given under this section to a person to use any land for a particular purpose nothing done by or on behalf of that person pursuant to, and in accordance with any conditions attached to, the consent constitute an offence against the Act."

Appendix Two:

Notes on the Recognition of Aboriginal Sites

APPENDIX 2

Notes on the Recognition of Aboriginal Sites

There are various types of Aboriginal Sites, and these notes have been prepared as a guide to the recognition of those types likely to be located in the survey area.

An Aboriginal Site is defined in the Aboriginal Heritage Act, 1972, in Section 5 as:

"(a) Any place of importance and significance where persons of Aboriginal descent have, or appear to have, left any object, natural or artificial, used for, or made for or adapted for use for, any purpose connected with the traditional cultural life of the Aboriginal people, past or present;

(b) Any sacred, ritual or ceremonial site, which is of importance and special significance to persons of Aboriginal descent;

(c) Any place which, in the opinion of the Committee is or was associated with the Aboriginal people and which is of historical, anthropological, archaeological or ethnographical interest and should be preserved because of its importance and significance to the cultural heritage of the state;

(d) Any place where objects to this Act applies are traditionally stored, or to which, under the provisions of this Act, such objects have been taken or removed."

Habitation Sites

These are commonly found throughout Western Australia and usually contain evidence of tool-making, seed grinding and other food processing, cooking, painting, engraving or numerous other activities. The archaeological evidence for some of these activities is discussed in details under the appropriate heading below.

Habitation sites are usually found near an existing or former water source such as a gnamma hole, rock pool, spring or soak. They are generally in the open, but they sometimes occur in shallow rock shelters or caves. It is particularly important that none of these sites be disturbed as the stratified deposits which may be found at such sites can yield valuable information about the inhabitants when excavated by archaeologists.

Seed Grinding

Polished or smoothed areas are sometimes noticed on/near horizontal rock surfaces. The smooth areas are usually 25cm wide and 40 or 50cm long. They are the result of seed grinding by the Aboriginal women and indicate aspects of past economy.

Habitation Structures

Aboriginal people sheltered in simple ephemeral structures, generally made of branches and sometimes of grass. These sites are rarely preserved for more than one occupation period. Occasionally rocks were pushed aside or used to stabilise other building materials. When these rock patterns are located they provide evidence for former habitation sites.

Middens

When a localised source of shellfish and other foods has been exploited from a favoured camping place, the accumulated ashes, hearth stones, shells, bones and other refuse can form mounds at times several metres high and many metres in diameter. Occasionally these refuse mounds or middens contain stone, shell or bone tools. These are most common near the coast, but examples on inland lake and river banks are not unknown.

Stone Artefact Factory Sites

Pieces of rock from which artefacts could be made were often carried to camp sites or other places for final production. Such sites are usually easily recognisable because the manufacturing process produces quantities of flakes and waste material which are clearly out of context when compared with the surrounding rocks. All rocks found on the sandy coastal plain, for example, must have been transported by human agencies. These sites are widely distributed throughout the State.

Quarries

When outcrops of rock suitable for the manufacture of stone tools were quarried by the Aborigines, evidence of the flaking and chipping of the source material can usually be seen in situ and nearby. Ochre and other mineral pigments used in painting rock surfaces, artefacts and in body decoration are mined from naturally occurring seams, bands and other deposits. This activity can sometimes be recognised by the presence of wooden digging sticks or the marks made by these implements.

Marked Trees

Occasionally trees are located that have designs in the bark which have been incised by Aborigines. Toeholds, to assist the climber, were sometimes cut into the bark and sapwood of trees in the hollow limbs of which possums and other arboreal animals sheltered. Some tree trunks bear scars where section of bark or wood have been removed and which would have been used to make dishes, shield, spearthrowers and other wooden artefacts. In some parts of the state wooden platforms were built in trees to accommodate a corpse during complex rituals following death.

Burials

In the north of the state, it was formerly the custom to place the bones of the dead on a ledge in a cave after certain rituals were completed. The bones were wrapped in sheets of bark and the skull placed beside this. In other parts of Western Australia the dead were buried, the burial position varying according to the customs of the particular area and time. Natural erosion, or mechanical earthmoving equipment occasionally exposes these burial sites.

Stone Structures

If one or more stone are found partly buried or wedged into a position which is not likely to be the result of natural forces, then it is probable that the place is an Aboriginal site and that possibly there are other important sites nearby. There are several different types of stone arrangements ranging simple cairns or piles of stones to more elaborate designs.

Low weirs which detain fish when tides fall are found in coastal areas. Some rivers contain similar structures that trap fish against the current. It seems likely that low stone slab structures in the south west jarrah forests were built to provide suitable environments in which to trap some small animals. Low walls or pits were sometimes made to provide a hide or shelter for a hunter.

Elongated rock fragments are occasionally erected as a sign or warning that a special area is being approached. Heaps or alignments of stones may be naturalistic or symbolic representations of animals, people or mythological figures.

Paintings

These usually occur in rock shelters, caves or other sheltered situations which offer a certain degree of protection from the weather. The best known examples in Western Australia occur in the Kimberley region but paintings are also found through most of the states. One of several coloured ochres as well as other coloured pigments may have been used at a site. Stencilling was a common painting technique used throughout the state. The negative image of an object was created by spraying pigment over the object which was held against the wall.

Engravings

This term described designs which have been carved, pecked or pounded into a rock surface. They form the predominant art form of the Pilbara region but are known to occur in the Kimberleys in the north to about Toodyay in the south. Most engravings occur in the open, but some are situated in rock shelters.

Caches

It was the custom to hide ceremonial objects in niches and other secluded places. The removal of objects from these places, or photography of the places or objects or any other interference with these places is not permitted.

Ceremonial Grounds

At some sites the ground has been modified in some way by the removal of surface pebbles, or the modelling of the soil, or the digging of pits and trenches. In other places there is not noticeable alteration of the ground surface and Aborigines familiar with the site must be consulted concerning its location.

Mythological Sites

Most sites already described have a place in Aboriginal mythology. In addition there are many Aboriginal sites with no man-made features which enable them to be recognised. They are often natural features in the landscape linked to the Aboriginal Account of the formation of the world during the creative "Dreaming" period in the distant past. Many such sites are located at focal points in the creative journeys of mythological spirit beings of the Dreaming. Such sites can only be identified by the Aboriginal people who are familiar with the associated traditions.

Appendix Three:

Register of Aboriginal Sites Extracts



Search Criteria

0 sites in a search polygon. The polygon is formed by these points (in order):

MGA Zone 50	
Northing	Easting
6514000	371000
6514000	372000
6508000	372000
6508000	371000



Disclaimer

Aboriginal sites exist that are not recorded on the Register of Aboriginal Sites, and some registered sites may no longer exist. Consultation with Aboriginal communities is on-going to identify additional sites. The AHA protects all Aboriginal sites in Western Australia whether or not they are registered.

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Legend

Restriction	Access	Coordinate Accuracy
N No restriction	C Closed	Accuracy is shown as a code in brackets following the site coordinates.
M Male access only	O Open	[Reliable] The spatial information recorded in the site file is deemed to be reliable, due to methods of capture.
F Female access	V Vulnerable	[Unreliable] The spatial information recorded in the site file is deemed to be unreliable due to errors of spatial data capture and/or quality of spatial information reported.

Status

L - Lodged	ACMC Decision Made
Information lodged, awaiting assessment	<p style="text-align: center;">↑</p> <p>R - Registered Site I - Insufficient information S - Stored Data</p>

Spatial Accuracy

Index coordinates are indicative locations and may not necessarily represent the centre of sites, especially for sites with an access code "closed" or "vulnerable". Map coordinates (Lat/Long) and (Easting/Northing) are based on the GDA 94 datum. The Easting / Northing map grid can be across one or more zones. The zone is indicated for each Easting on the map, i.e. '5000000;Z50' means Easting=5000000, Zone=50.

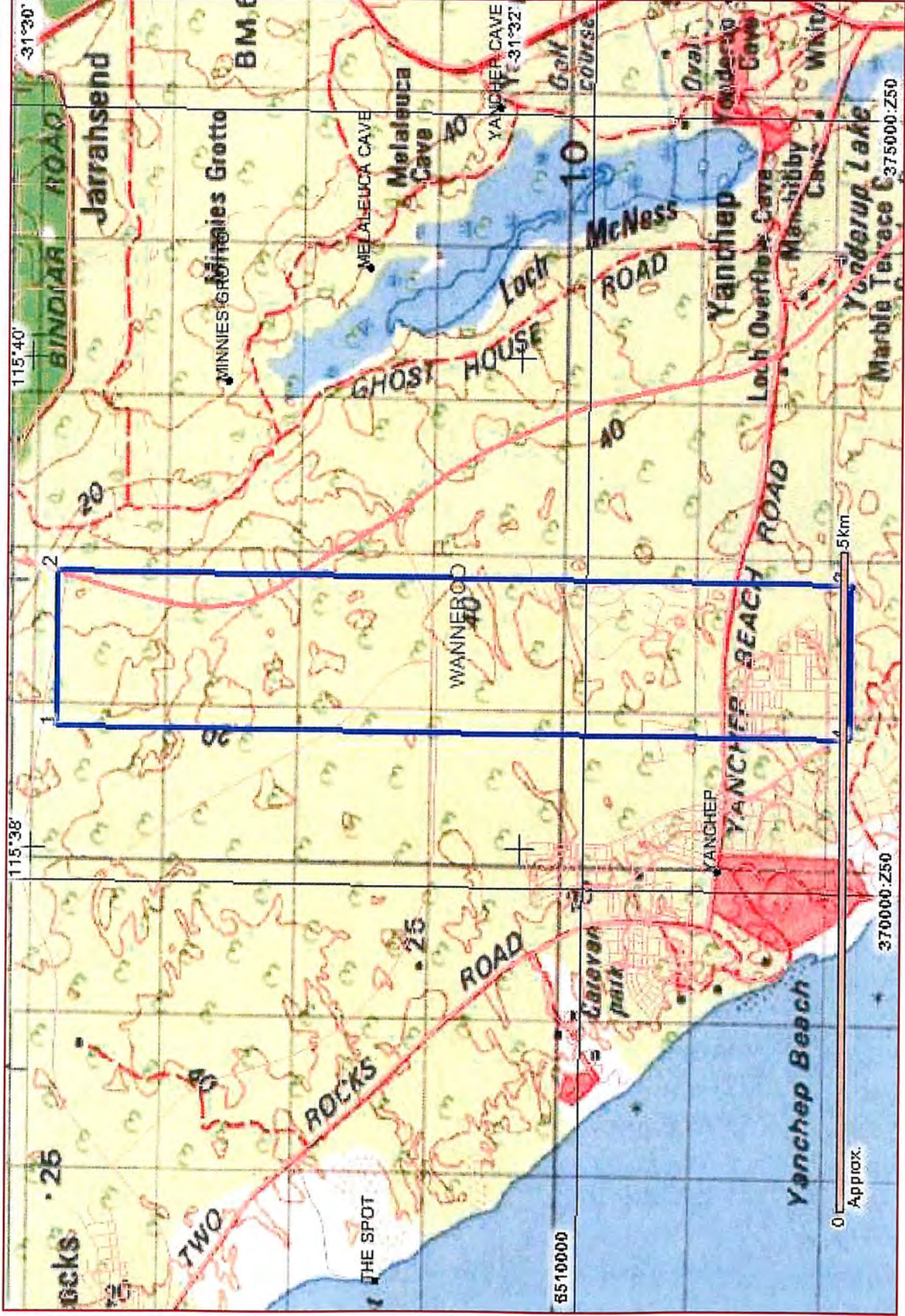
Sites Shown on Maps

Site boundaries may not appear on maps at low zoom levels



List of Registered Aboriginal Sites with Map

No results





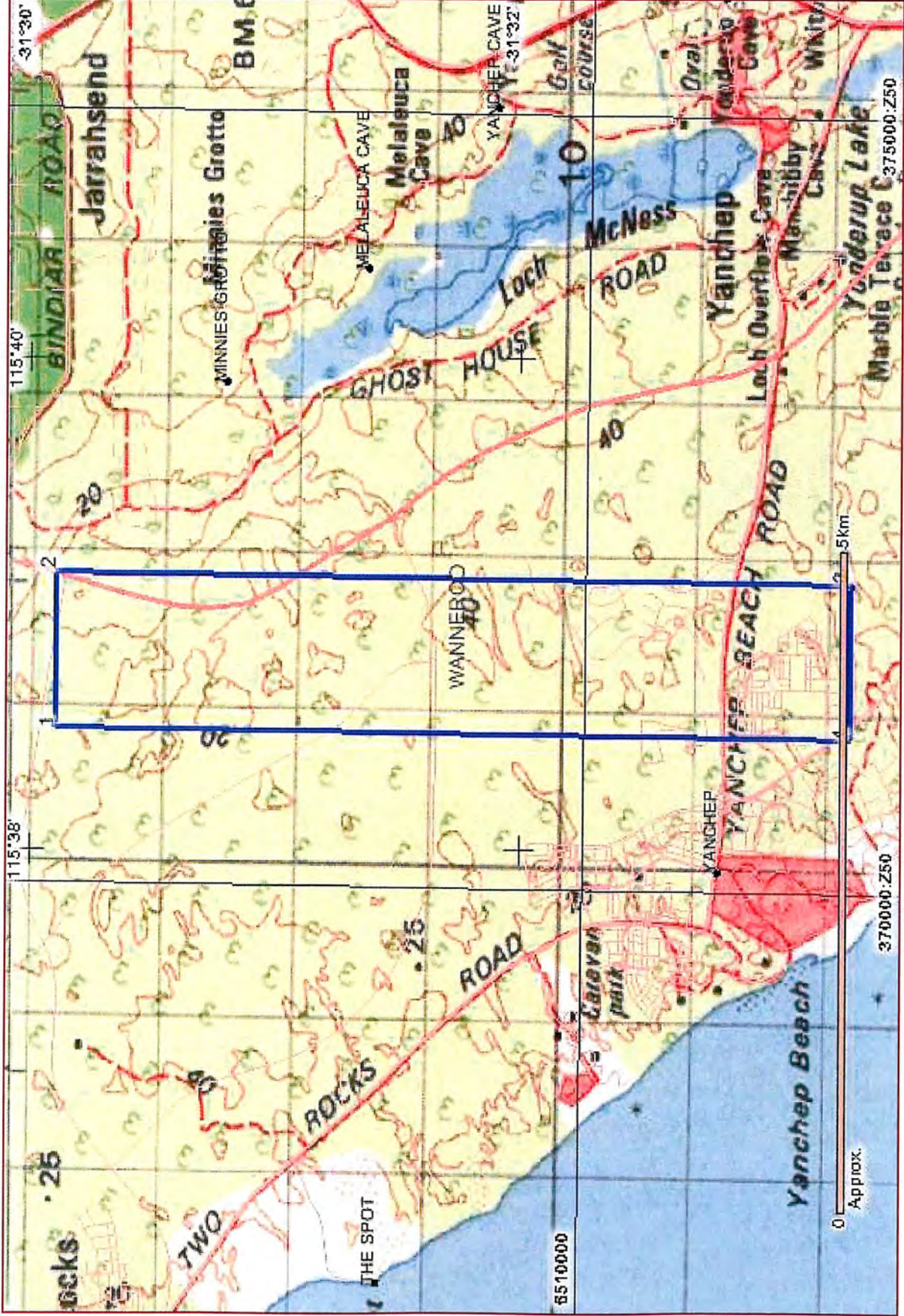
List of Other Heritage Places with Map

No results



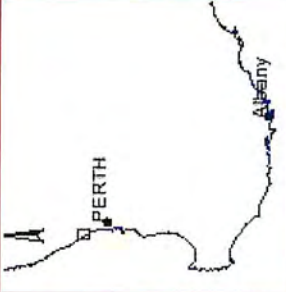
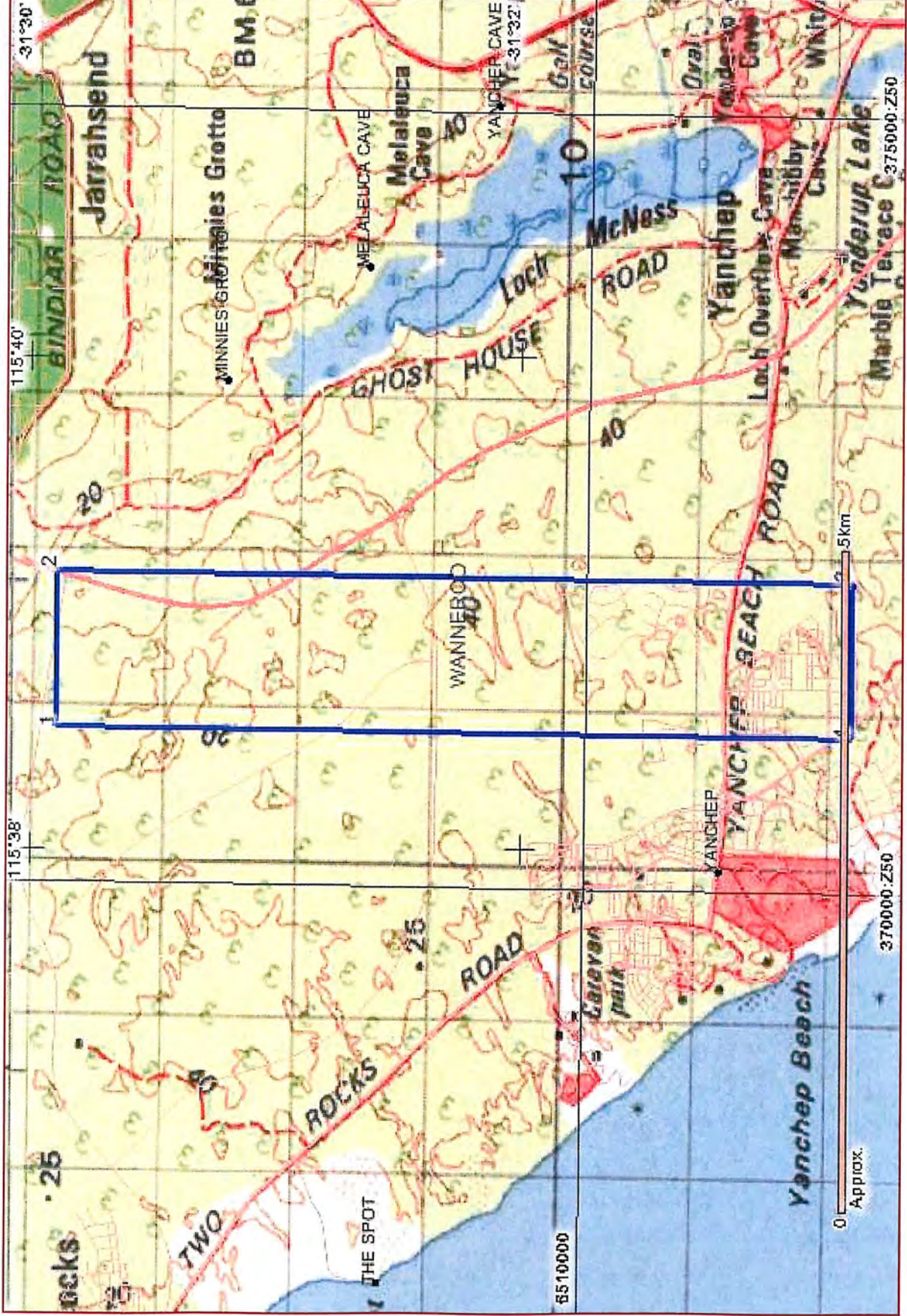
Aboriginal Heritage Inquiry System

Aboriginal Sites Database





Map Showing Registered Aboriginal Sites and Other Heritage Places



Legend

Selected Heritage Sites

- Registered Sites
- Other Heritage Places
- Town
- Map Area
- Search Area

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Search Criteria

0 sites in a search polygon. The polygon is formed by these points (in order):

MGA Zone 50	
Northing	Easting
6509000	372000
6506000	375400
6506000	373000
6508000	372000



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Legend

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N No restriction	C Closed	Accuracy is shown as a code in brackets following the site coordinates.
M Male access only	O Open	[Reliable] The spatial information recorded in the site file is deemed to be reliable, due to methods of capture.
F Female access	V Vulnerable	[Unreliable] The spatial information recorded in the site file is deemed to be unreliable due to errors of spatial data capture and/or quality of spatial information reported.

Status

L - Lodged	ACMC Decision Made
Information lodged, awaiting assessment	<p style="text-align: center;">↑</p> <p>R - Registered Site I - Insufficient information S - Stored Data</p>

Spatial Accuracy

Index coordinates are indicative locations and may not necessarily represent the centre of sites, especially for sites with an access code "closed" or "vulnerable". Map coordinates (Lat/Long) and (Easting/Northing) are based on the GDA 94 datum. The Easting / Northing map grid can be across one or more zones. The zone is indicated for each Easting on the map, i.e. '5000000:250' means Easting=5000000, Zone=50.

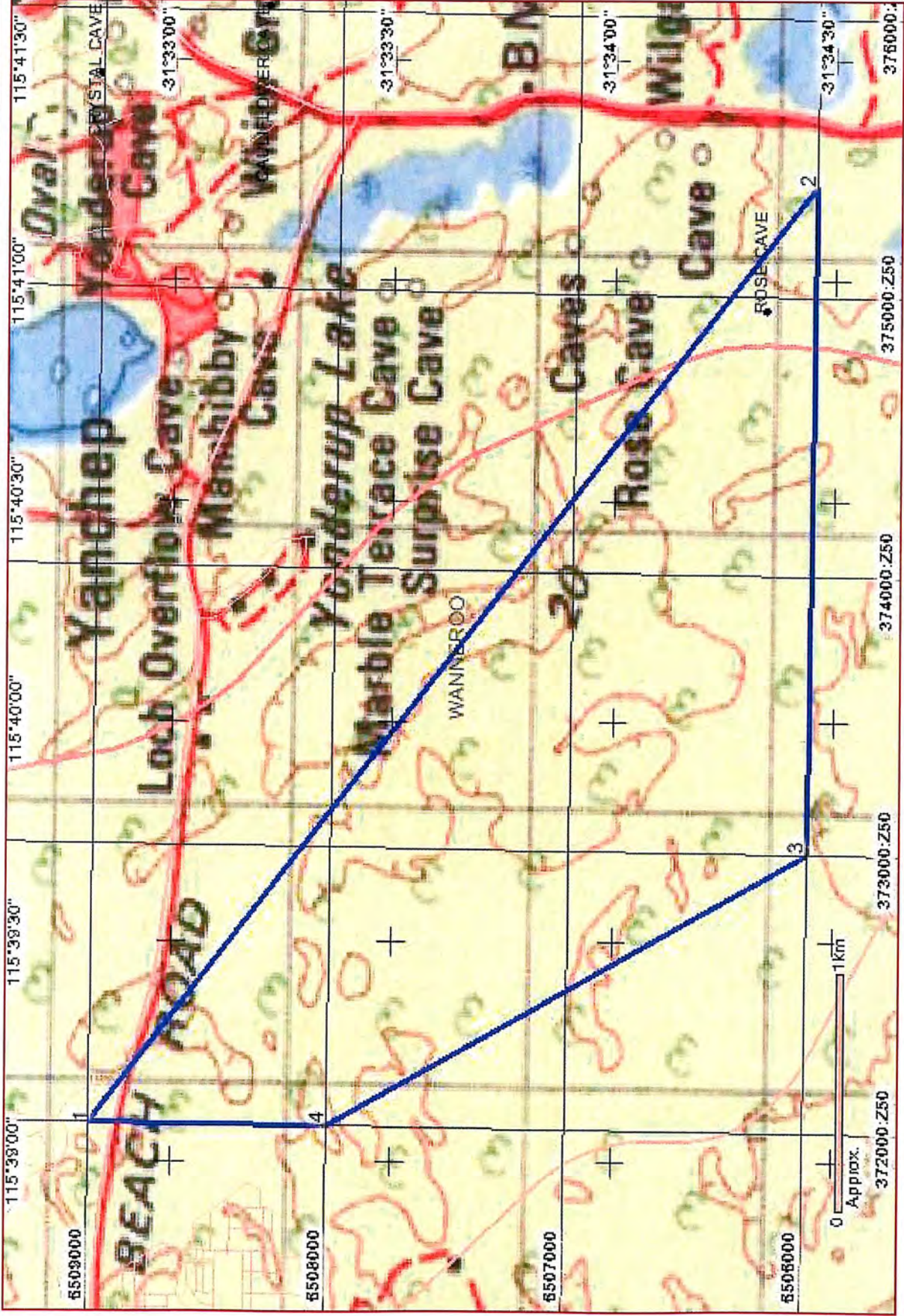
Sites Shown on Maps

Site boundaries may not appear on maps at low zoom levels



List of Registered Aboriginal Sites with Map

No results



Legend

Selected Heritage Sites

Registered Sites

Town

Map Area

Search Area

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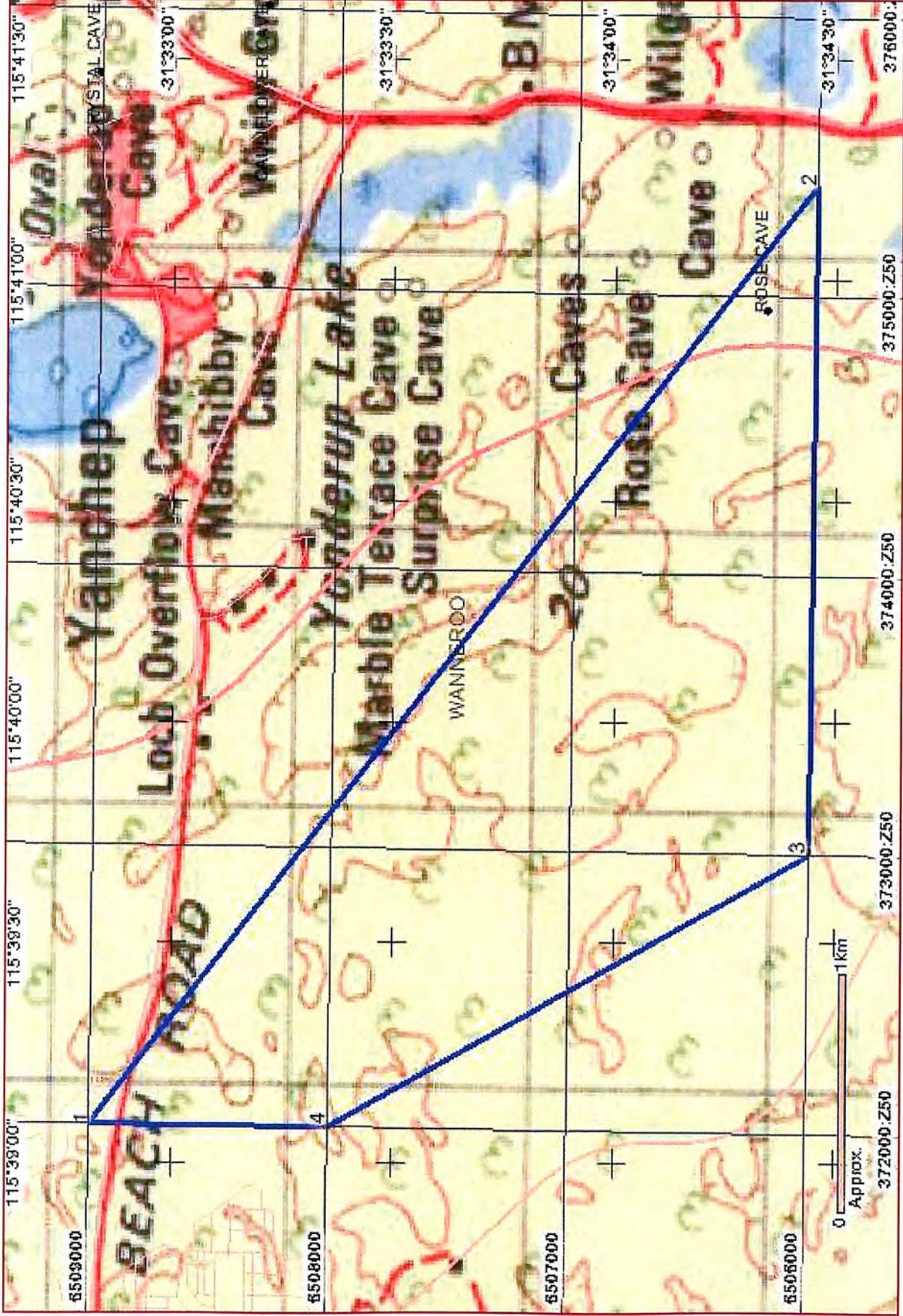
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List of Other Heritage Places with Map

No results



Legend

Selected Heritage Sites

Other Heritage Places

Town

Map Area

Search Area

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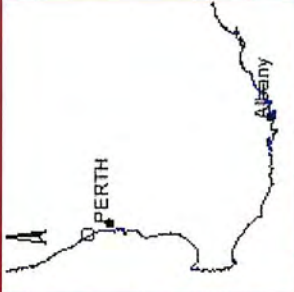
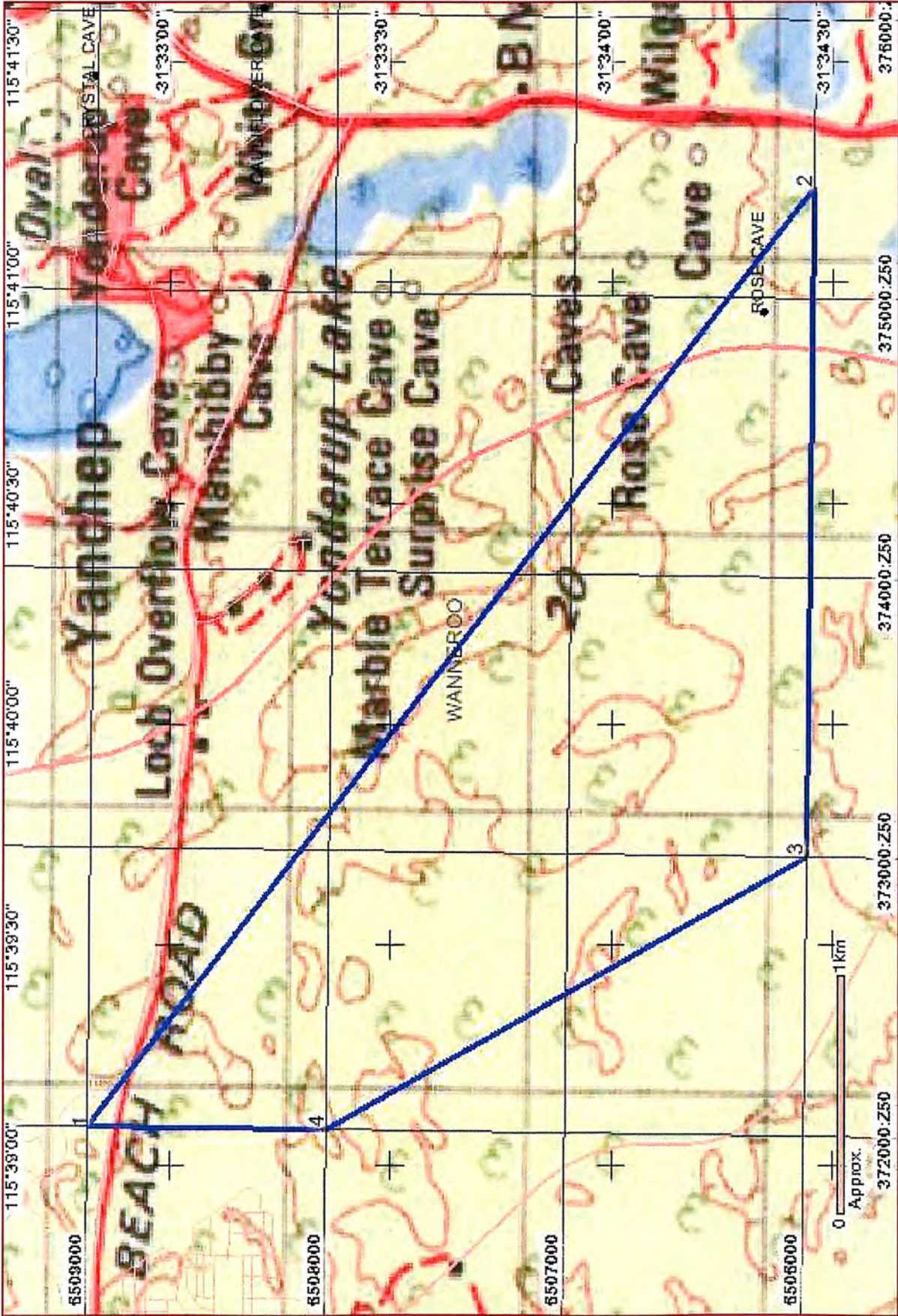
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Map Showing Registered Aboriginal Sites and Other Heritage Places



Legend

- Selected Heritage Sites
- Registered Sites
- Other Heritage Places
- Town
- Map Area
- Search Area

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Search Criteria

2 sites in a search polygon. The polygon is formed by these points (in order):

MGA Zone 50	
Northing	Easting
6506000	375000
6500000	377000
6500000	376000
6506000	373000



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Legend

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N No restriction	C Closed	Accuracy is shown as a code in brackets following the site coordinates.
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F Female access	V Vulnerable	[Unreliable] The spatial information recorded in the site file is deemed to be unreliable due to errors of spatial data capture and/or quality of spatial information reported.

Status

L - Lodged	ACMC Decision Made
Information lodged, awaiting assessment	<p style="text-align: center;">↑</p> <p>R - Registered Site I - Insufficient information S - Stored Data</p>

Spatial Accuracy

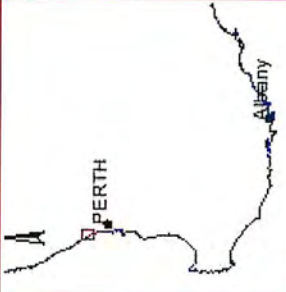
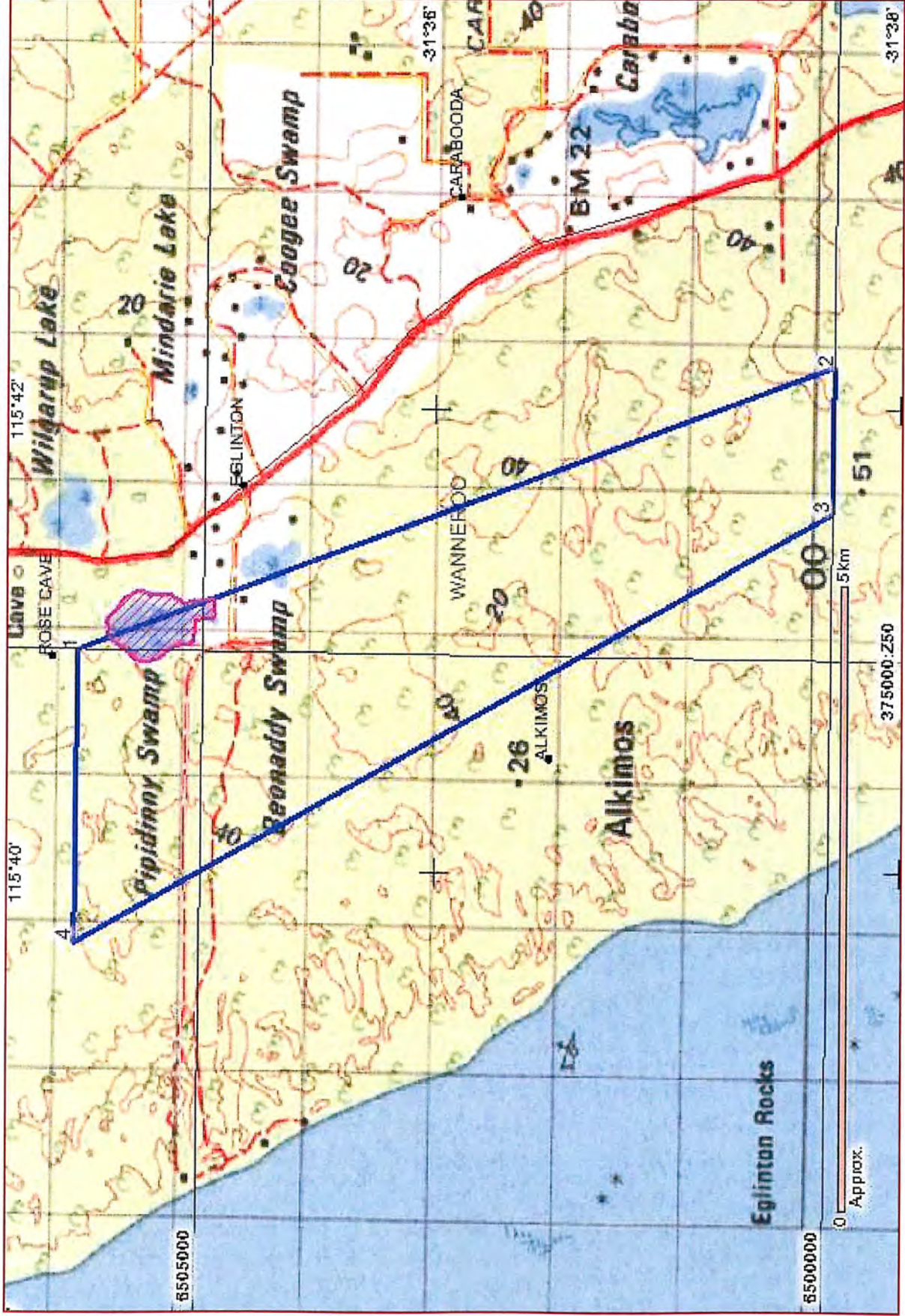
Index coordinates are indicative locations and may not necessarily represent the centre of sites, especially for sites with an access code "closed" or "vulnerable". Map coordinates (Lat/Long) and (Easting/Northing) are based on the GDA 94 datum. The Easting / Northing map grid can be across one or more zones. The zone is indicated for each Easting on the map, i.e. '5000000,Z50' means Easting=5000000, Zone=50.

Sites Shown on Maps

Site boundaries may not appear on maps at low zoom levels




List of 1 Registered Aboriginal Sites with Map

Site ID	Status	Access	Restriction	Site Name	Site Type	Additional Info	Informants	Coordinates	Site No.
17451	R	O	N	Pipidinnny Lake	Mythological		*Registered Informant names available from DIA. <i>Ken Collings</i>	375183mE 6505378mN Zone 50 [Reliable]	



Legend

Selected Heritage Sites

-  Registered Sites
-  Town
-  Map Area
-  Search Area

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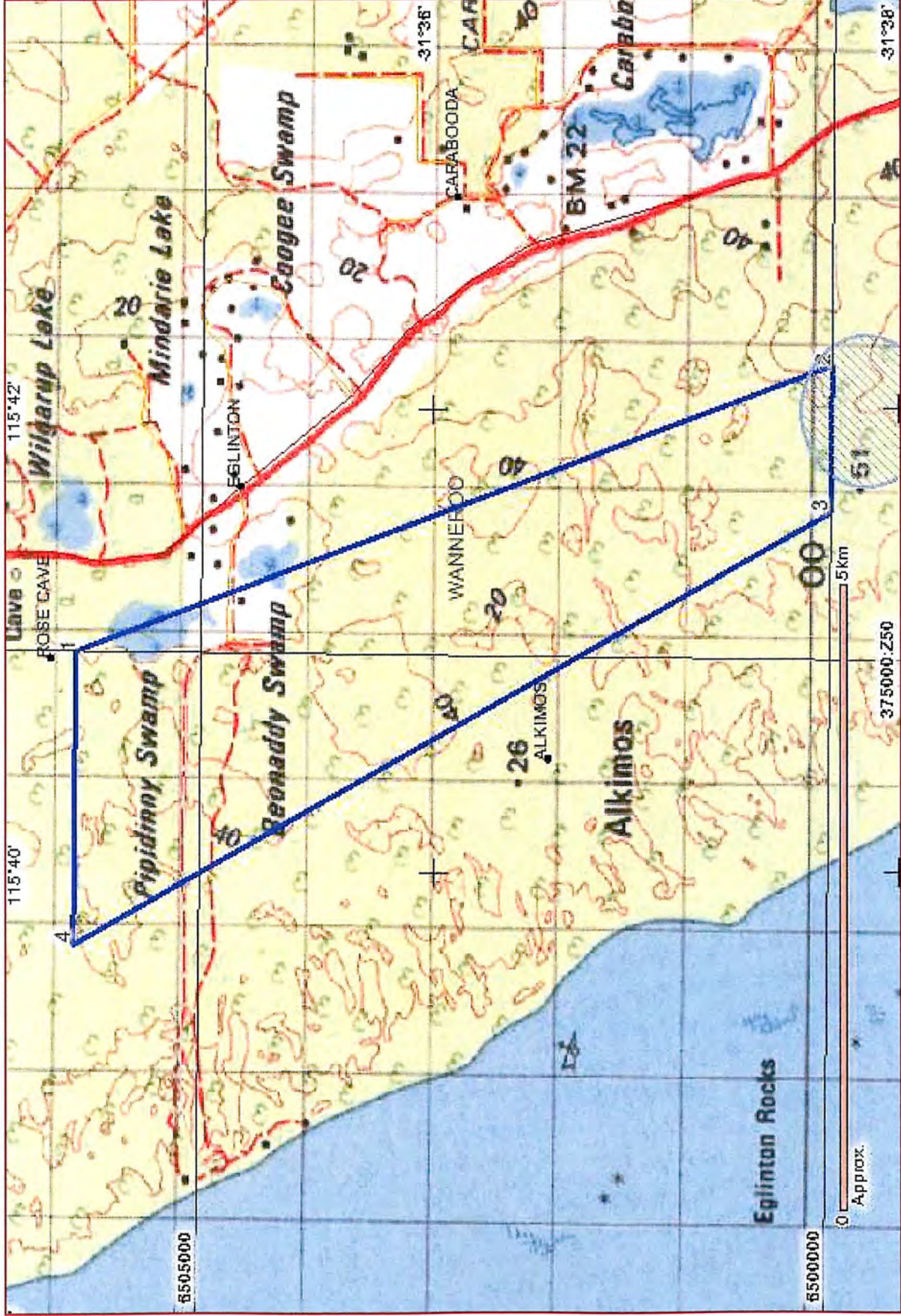
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List of 1 Other Heritage Places with Map

Site ID	Status	Access	Restriction	Site Name	Site Type	Additional Info	Informants	Coordinates	Site No.
20769	S	O	N	Sbj09		Natural Feature, [Other: Tall Eucalyptus Trees]	*Registered Informant names available from DIA.	376693mE 6499728mN Zone 50 [Reliable]	



Legend

Selected Heritage Sites

Other Heritage Places

Town

Map Area

Search Area

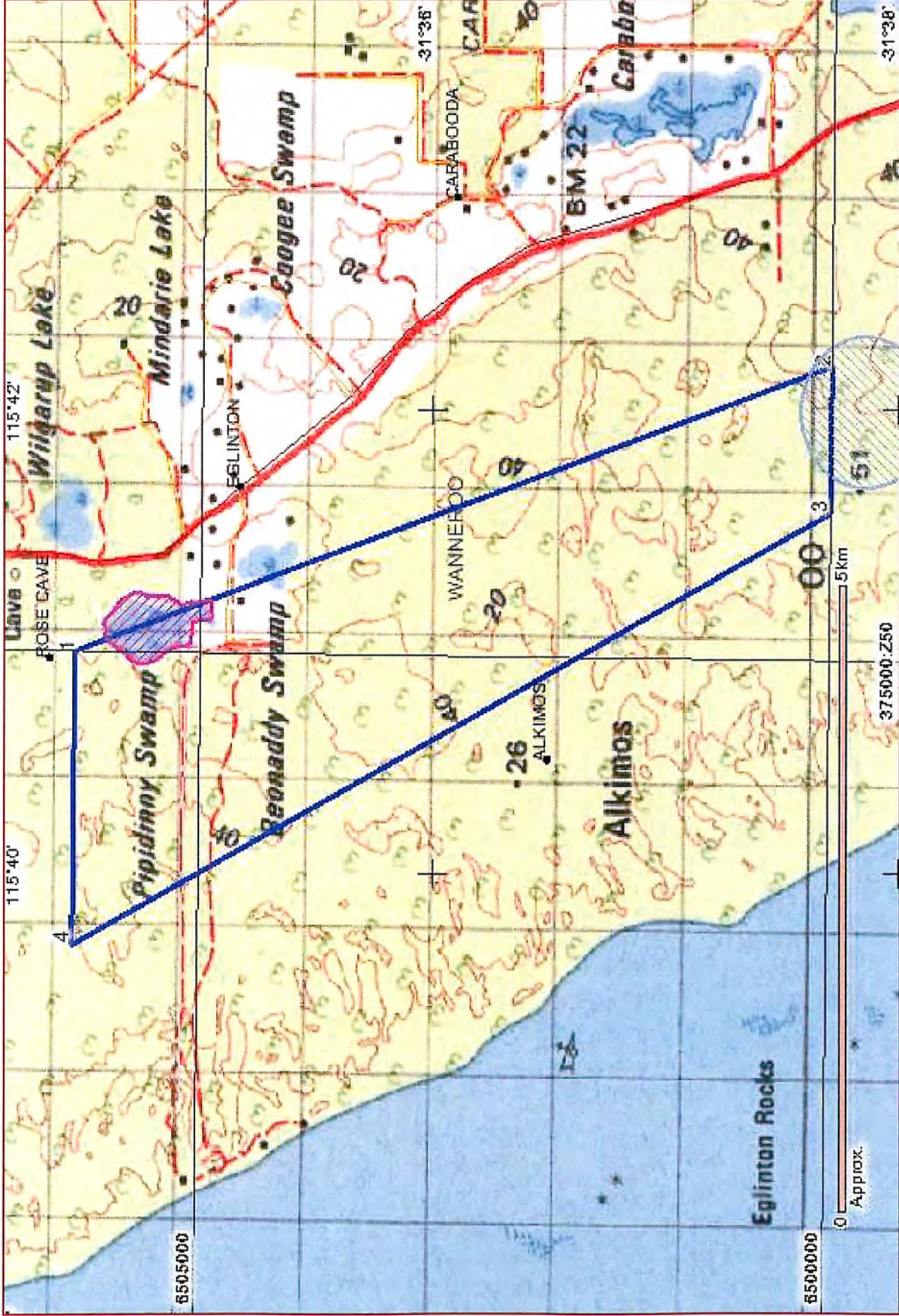
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Map Showing Registered Aboriginal Sites and Other Heritage Places





Search Criteria

11 survey reports with information on the sites in a search polygon. The polygon is formed by these points (in order):

MGA Zone 50	
Northing	Easting
65060000	3750000
65000000	3770000
65000000	3760000
65060000	3730000

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Legend

Access

Some reports are restricted. The type of restriction is shown as a code in brackets following the catalogue number. No code indicates an unrestricted report.

[CLOSED]	Closed
[OWE]	Open with exception
[TBD]	To be determined
[RESTRICTED PENDING]	Restricted pending



Report ID	Catalogue Number	Title	Author	Old Ref No.
23254	HSR MW 2008 THO	A report on an archaeological inspection : Lot 3 Romeo Road, Alkimos, WA	Thomson, Jo	3253 08
101370	HSR MW 1998 KAU [OWE]	Cultural significance of Aboriginal sites in the Wanneroo area : Final report ; prepared for Elder H	Kauler, Lily Bhavna.	0114 99
20246	HSR MW 2003 PAR	Ethnographic and archaeological site avoidance survey under the Aboriginal Heritage Act (1972) proposed residential development of The Brighton Estate Lot 8 Marmion Avenue Butler Western Australia	Parker, Susan	1410 03
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22599	HSR MW 2007 AUS	Report on an Aboriginal Heritage Investigation under the Aboriginal Heritage Act 1972 to support a public submission on the draft East Wanneroo Land Use and Water Management Strategy	Australian Interaction Consultants	2815 07
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21909	HSR MW 2005 EST	Study of groundwater - related Aboriginal Cultural Values on the Gnangara Mound, Western Australia	McDonald Edward	<i>not relevant</i> 2356 05
21910	HSR MW 2005 EST	Study of groundwater - related Aboriginal Cultural Values on the Gnangara Mound, Western Australia : Volume 1 restricted report	McDonald Edward	<i>not relevant</i> 2357 05
21911	HSR MW 2005 EST	Study of groundwater - related Aboriginal Cultural Values on the Gnangara Mound, Western Australia : Volume 2 inventory of registered sites restricted report for Department of Environment	McDonald Edward	<i>not relevant</i> 2358 05